



General Assembly

Substitute Bill No. 194

February Session, 2004

* _____SB00194JUD____041404_____*

**AN ACT CONCERNING THE PRESERVATION OF FEDERALLY-
ASSISTED HOUSING AS LOW AND MODERATE INCOME HOUSING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004, and applicable to any*
2 *termination of subsidy for the development occurring on or after July 1, 2005*)
3 As used in sections 1 to 8, inclusive, of this act:

4 (1) "Development" means a rental housing development that
5 receives government assistance under any of the following federal
6 programs, including any property that is owned or whose mortgage is
7 held by the United States Department of Housing and Urban
8 Development and was formerly insured under any of the following
9 programs:

10 (A) New construction, substantial rehabilitation, moderate
11 rehabilitation, property disposition and loan management set-aside
12 programs or any other program providing project-based assistance
13 under Section 8 of the United States Housing Act of 1937, as from time
14 to time amended;

15 (B) The Below Market Interest Rate Program under Section 221(d)(3)
16 of the National Housing Act, 12 USC 1715l(d)(3), (5);

17 (C) Section 236 of the National Housing Act, 12 USC 1715z-1;

- 18 (D) Section 202 of the Housing Act of 1959, 12 USC 1701q;
- 19 (E) Programs for rent supplement assistance under Section 101 of
20 the Housing and Urban Development Act of 1965, 12 USC 1701s;
- 21 (F) Programs under Section 515 of the Housing Act of 1949, 42 USC
22 1485; or
- 23 (G) The Low Income Housing Tax Credit program, 26 USC 42.
- 24 (2) "HUD" means the United States Department of Housing and
25 Urban Development or the Federal Housing Administration Rural
26 Housing Services or a local housing authority administering a HUD
27 program.
- 28 (3) "Nonprofit corporation" means a nonprofit corporation, as
29 defined in subsection (a) of section 8-395 of the general statutes.
- 30 (4) "Owner" means an individual, partnership, corporation,
31 association, joint venture or business entity that owns or controls a
32 development or is a party to a contract with HUD or other public body
33 which provides a mortgage, mortgage assistance, mortgage insurance
34 or rent subsidy; or any spouse, employee, agent, partner or successor
35 in interest of such person, partnership or corporation that receives or
36 demands rent for the development.
- 37 (5) "Tenant" means a tenant, subtenant, lessee, sublessee or other
38 person entitled to possession, occupancy or benefits of a rental unit
39 within the development.
- 40 (6) "Tenant association" means an association, organization or other
41 entity that represents tenants in a development, including, but not
42 limited to, an association that is incorporated as a nonprofit
43 corporation or a cooperative.
- 44 (7) "Cooperative" shall have the same meaning as in subdivision (10)
45 of section 47-202 of the general statutes.

46 (8) "Relocation assistance" means the assistance payment to tenants
47 who relocate, as provided in section 4 of this act.

48 (9) "Termination of subsidy for the development" or "termination of
49 subsidy" means: (A) Any sale, transfer of title, lease, prepayment of
50 loan insured or held by HUD or another federal agency or any other
51 action with respect to a development, as defined in subdivision (1) of
52 this section, that would result in the cessation or reduction of the
53 financial assistance designed to make the rental unit affordable to low
54 and moderate income households; or (B) an owner's decision not to
55 extend or renew its participation in a federal project-based subsidy
56 program, either at or prior to the scheduled date of the expiration of
57 the contract; or (C) the expiration of rental restrictions for a
58 development that may result in an increase in tenant rent or a change
59 in the form of the subsidy from project-based to tenant-based.

60 (10) "Low and moderate income household" means any household
61 with an adjusted gross income that satisfies the eligibility requirements
62 for income-restricted units in the development, existing before
63 termination of subsidy for the development.

64 (11) "Affordability preservation transaction" means a transaction for
65 the purpose of preserving a development as housing for low and
66 moderate income households, which complies with all requirements of
67 section 6 of this act.

68 Sec. 2. (NEW) (*Effective July 1, 2004, and applicable to any termination of*
69 *subsidy for the development occurring on or after July 1, 2005*) (a) On and
70 after July 1, 2004, any owner of a development shall, not later than one
71 year before the termination of subsidy for the development, provide
72 written notice of the owner's intent to terminate the subsidy, sent by
73 first class mail or hand-delivered, to (1) each tenant residing in the
74 development, (2) each tenant association representing tenants in the
75 development, (3) the executive director of any housing authority of the
76 municipality in which the development is located, (4) the chief
77 executive officer of the municipality in which the development is

78 located, (5) the executive director of the Connecticut Housing Finance
79 Authority, (6) the Commissioner of Economic and Community
80 Development, and (7) the executive director of the Connecticut
81 Housing Coalition. The notice shall be posted in a conspicuous
82 common area of the development accessible to the tenants. A copy of
83 the notice shall be filed in the land records of the municipality in which
84 the development is located.

85 (b) The notice shall (1) inform the persons and entities described in
86 subsection (a) of this section that the owner intends to sell or otherwise
87 dispose of the development or terminate the subsidy or rental
88 restrictions for the development and that they have an option to
89 purchase the property pursuant to sections 1 to 8, inclusive, of this act,
90 (2) inform the tenants of their right to relocation assistance if the
91 subsidy for the development is terminated, (3) identify the number of
92 units that will no longer be subject to the restrictions imposed by the
93 federal program, (4) include information on the estimated rents that
94 will be charged compared to the rent charged under the federal
95 program and the action the owner will take to assist displaced tenants
96 in obtaining other housing, and (5) provide the telephone numbers of
97 the Connecticut Housing Finance Authority and the Department of
98 Economic and Community Development.

99 (c) Upon the request of a tenant association or other entity with an
100 option to purchase under subsection (b) of section 3 of this act, the
101 Connecticut Housing Finance Authority and the Department of
102 Economic and Community Development shall, within existing
103 resources, assist said entity in developing financing for the purchase of
104 the development.

105 Sec. 3. (NEW) (*Effective July 1, 2004, and applicable to any termination of*
106 *subsidy for the development occurring on or after July 1, 2005*) (a) At least
107 one year before the intended date of termination of subsidy for the
108 development, the owner shall provide to each person and entity
109 specified in subsection (a) of section 2 of this act a written copy of a
110 bona fide offer to sell sent by first class mail or hand delivered and

111 post a copy of the offer to sell in a conspicuous place in the common
112 area of the development accessible to tenants.

113 (b) An offer to sell made pursuant to this section shall include, but
114 not be limited to:

115 (1) The essential terms of the sale, which shall include, but not be
116 limited to, (A) the sale price, (B) the terms of seller financing, if any,
117 including the amount, interest rate and amortization rate, (C) the terms
118 of the assumable financing, including the amount, interest rate and
119 amortization rate, and (D) any proposed improvements to the property
120 to be made by the owner in connection with the sale or other economic
121 concessions by the owner in connection with the sale.

122 (2) A statement that each of the following entities has the right to
123 purchase the development for the purpose of preserving the
124 development as low and moderate income housing according to the
125 following order of priorities: (A) A tenant association which represents
126 not less than twenty-five per cent of the tenants in the development,
127 (B) a nonprofit corporation that has been designated by not less than
128 twenty-five per cent of the tenants in the development for the purpose
129 of assisting in the purchase or acquisition of the development, (C) any
130 other nonprofit corporation, (D) the housing authority of the
131 municipality in which the development is located, or a nonprofit
132 corporation designated by the housing authority, (E) the municipality
133 in which the development is located, or a nonprofit corporation
134 designated by the municipality, (F) the Connecticut Housing Finance
135 Authority, or a nonprofit corporation designated by the authority, or
136 (G) the Department of Economic and Community Development, or a
137 nonprofit corporation designated by the department.

138 (c) The offer to sell shall expire unless at least one interested entity
139 described in subdivision (2) of subsection (b) of this section notifies the
140 owner, in writing, not later than two hundred forty days before the
141 intended date of termination of subsidy for the development of its
142 intent to purchase the development.

143 (d) After receiving a notice from one or more interested entities of
144 the entity's intent to purchase, the owner shall comply with any
145 reasonable request to have access to the premises for the purposes of
146 inspection or to make documents available to the interested entity
147 during normal business hours at the owner's principal place of
148 business not later than thirty days after the date the owner receives
149 such a request. Access to documents shall include, but not be limited
150 to: (1) Copies of financial and physical inspection reports filed with
151 federal, state or local agencies, including, but not limited to, audit
152 reports for the three most recent years, the most current capital needs
153 assessment and a current operating and capital budget; (2) the most
154 recent rent rolls, redacted to protect tenant confidentiality; (3) the
155 current vacancy rate and a statement of the vacancy rate of the
156 development for each of the two preceding years; and (4) all applicable
157 notes, mortgages and regulatory documents and all rental assistance
158 contracts with a governmental agency. Except as to documents which
159 are public records, the owner may make the release of documents
160 pursuant to this subsection subject to a confidentiality agreement
161 preventing their disclosure to anyone except the entity requesting
162 them and its agents.

163 (e) The interested entity shall, not later than one hundred twenty
164 days before the intended date of the termination of subsidy for the
165 development, provide the owner with a bona fide offer to purchase
166 evidenced by a purchase contract reflecting the sale price and any
167 terms agreed to by the parties, or the sale price and terms determined
168 pursuant to the contract, and a deposit equal to five per cent of the
169 amount of the bona fide offer to purchase.

170 (f) If the parties are unable to agree on a purchase price, the
171 interested entity shall have the right to purchase the property:

172 (1) If the interested entity matches the essential provisions of any
173 existing bona fide offer to purchase the development made by another
174 potential purchaser which the owner is prepared to accept; or

175 (2) If there is no bona fide offer, at a purchase price at its current
176 appraised value to be established by an appraiser chosen by the
177 interested entity and the owner. As used in this subdivision,
178 "appraised value" means the value of the affected development for its
179 highest and best use as housing but subject to any existing
180 affordability restrictions that cannot be extinguished by the unilateral
181 action of the owner. If the interested entity and the owner cannot agree
182 on one appraiser, either party may notify the Connecticut Housing
183 Finance Authority and the other party, in writing, of such
184 disagreement. In such case, the interested entity shall choose one
185 appraiser and the owner shall choose one appraiser and the two
186 appraisers shall jointly choose a third appraiser. The three appraisers
187 shall establish a value for the development. If the owner or the
188 interested entity does not select an appraiser by the fifteenth day after
189 the date of the mailing of the notice of the disagreement, the
190 Connecticut Housing Finance Authority shall choose an appraiser for
191 the owner or the interested entity. The costs of all appraisers shall be
192 paid equally by the interested entity and the owner. If it is necessary to
193 obtain appraisals to establish the purchase price, the time to close the
194 sale under subsection (g) of this section shall be extended by the time
195 necessary to obtain such appraisals and determine a purchase price.

196 (g) The interested entity shall agree to close the sale not later than
197 the date of the intended termination of subsidy for the development,
198 unless extended by mutual agreement between the interested entity
199 and the owner.

200 (h) Upon the settlement of any purchase of the development by an
201 entity described in subsection (b) of this section under an option to
202 purchase and offer of sale, the purchaser shall execute and record a
203 regulatory agreement or covenant on the land records that shall restrict
204 the use of the development to residential property for low and
205 moderate income households for at least twenty years.

206 Sec. 4. (NEW) (*Effective July 1, 2004, and applicable to any termination of*
207 *subsidy for the development occurring on or after July 1, 2005*) The owner

208 shall pay to each tenant under this section who vacates a dwelling unit
209 after the issuance of the notice required by subsection (a) of section 2 of
210 this act but not more than twelve months after the termination of
211 subsidy for the development the sum of two thousand dollars as
212 relocation assistance. Such payment shall be made not later than the
213 date on which the tenant vacates the unit. Such payments shall not be
214 deemed to be income to the tenants. This section shall apply to all
215 tenants in occupancy on the date the notice of intended termination of
216 subsidy of the development is given pursuant to subsection (a) of
217 section 2 of this act or who enter into occupancy after said date but
218 before the termination of subsidy for the development. The assistance
219 provided by this section shall be in addition to and not in place of any
220 other rights or benefits that such tenant may have under sections 1 to
221 8, inclusive, of this act or under any federal or other state law.

222 Sec. 5. (NEW) (*Effective July 1, 2004, and applicable to any termination of*
223 *subsidy for the development occurring on or after July 1, 2005*) A violation
224 of any provision of sections 1 to 8, inclusive, of this act shall be deemed
225 an unfair or deceptive trade practice under chapter 735a of the general
226 statutes. In the case of any such violation, the tenant association, one or
227 more tenants of the development, or an entity with a right to be
228 notified under subsection (a) of section 2 of this act or the right to
229 purchase under subsection (b) of section 3 of this act may bring an
230 action for relief under said chapter 735a, including, but not limited to,
231 injunctive relief and damages. The rights under this section shall be in
232 addition to and not in place of any other rights or remedies available to
233 such persons or entities under any other provision of law.

234 Sec. 6. (NEW) (*Effective July 1, 2004, and applicable to any termination of*
235 *subsidy for the development occurring on or after July 1, 2005*) (a) It is the
236 intent of the General Assembly that the provisions of sections 1 to 8,
237 inclusive, of this act are in addition to, but not preemptive of,
238 applicable federal laws governing the sale or other disposition of a
239 development that would result in either (1) a discontinuance of its use
240 as an assisted housing development, or (2) the termination of any low
241 or moderate income use restrictions which apply to the development.

242 (b) The Connecticut Housing Finance Authority may adopt such
243 rules, policies, standards and procedures as may be necessary or
244 appropriate to carry out the purposes of sections 1 to 8, inclusive, of
245 this act.

246 Sec. 7. (NEW) (*Effective July 1, 2004, and applicable to any termination of*
247 *subsidy for the development occurring on or after July 1, 2005*) The
248 provisions of sections 1 to 8, inclusive, of this act shall not apply to an
249 affordability preservation transaction undertaken by the owner in
250 connection with the refinancing of such a development's governmental
251 program mortgage, or undertaken by a buyer in connection with the
252 sale, transfer or other disposition of such a development by contract or
253 agreement with a proposed new mortgage lender or equity investor, or
254 with HUD, the Connecticut Housing Finance Authority, the
255 Department of Economic and Community Development or any other
256 governmental agency or body, provided the contract or agreement
257 requires the owner or buyer and owner's or buyer's respective
258 successors and assigns to comply with all of the following affordability
259 preservation criteria contained in a regulatory agreement that has been
260 recorded against the property:

261 (1) To maintain the development as low and moderate income
262 housing on terms at least as advantageous to existing and future
263 tenants as the terms required by the affected development's
264 governmental program in effect before the date of notice required by
265 subsection (a) of section 2 of this act for a period of time at least as long
266 as what the remaining term of the governmental program would have
267 been but for the termination of subsidy or for a period of time not less
268 than twenty years after the date of the termination of subsidy,
269 whichever is greater;

270 (2) To maintain at least as many dwelling units as low and moderate
271 income housing as were required to be affordable to such households
272 under the governmental program in effect prior to the termination of
273 subsidy for a period of time not less than twenty years after the date of
274 the termination of subsidy; and

275 (3) To maintain as rental subsidy program units such number of
 276 units as were required to be subsidy program units under the contract
 277 for the rental subsidy program in effect prior to the termination of
 278 subsidy for a period of time not less than twenty years after the date of
 279 the termination of subsidy, subject to the existence of a rental subsidy
 280 program.

281 Sec. 8. (*Effective July 1, 2004, and applicable to any termination of subsidy*
 282 *for the development occurring on or after July 1, 2005*) Section 8-68c of the
 283 general statutes is repealed.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 2	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 3	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 4	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 5	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 6	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 7	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>
Sec. 8	<i>July 1, 2004, and applicable to any termination of subsidy for the development occurring on or after July 1, 2005</i>

HSG Joint Favorable Subst. C/R

PD

PD *Joint Favorable*

JUD *Joint Favorable*